

§ 927.29

7 CFR Ch. IX (1-1-07 Edition)

from the same group (handler, processor, or grower) to serve in that member's place and stead.

§ 927.29 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate for a member of the Fresh Pear Committee or the Processed Pear Committee to qualify, or in the event of death, removal, resignation, or disqualification of any qualified member or qualified alternate for a member, a successor for his or her unexpired term shall be nominated and selected in the manner set forth in §§ 927.20 to 927.35. If nominations to fill any such vacancy are not made within 20 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

§ 927.30 Compensation and expenses.

The members and alternates for members shall serve without compensation, but may be reimbursed for expenses necessarily incurred by them in the performance of their respective duties.

§ 927.31 Powers.

The Fresh Pear Committee and the Processed Pear Committee shall have the following powers to exercise each independently:

(a) To administer, as specifically provided in §§ 927.20 to 927.35, the terms and provisions of this subpart:

(b) To make administrative rules and regulations in accordance with, and to effectuate, the terms and provisions of this subpart; and

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart.

§ 927.32 Duties.

The duties of the Fresh Pear Committee and the Processed Pear Committee, each independently, shall be as follows:

(a) To act as intermediary between the Secretary and any grower, handler or processor;

(b) To keep minutes, books, and records which will reflect clearly all of the acts and transactions. The minutes, books, and records shall be subject at any time to examination by the

Secretary or by such person as may be designated by the Secretary;

(c) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears, and to furnish to the Secretary such available information as may be requested;

(d) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the Act to amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935 (49 Stat. 774), as amended;

(e) To cause the books to be audited by one or more competent accountants at the end of each fiscal year and at such other times as the Fresh Pear Committee or the Processed Pear Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

(f) To appoint such employees agents, and representatives as it may deem necessary, and to determine the compensation and define the duties of each;

(g) To give the Secretary, or the designated agent of the Secretary, the same notice of meetings as is given to the members of the Fresh Pear Committee or the Processed Pear Committee;

(h) To select a chairman of the Fresh Pear Committee or the Processed Pear Committee and, from time to time, such other officers as it may deem advisable and to define the duties of each; and

(i) To submit to the Secretary as soon as practicable after the beginning of each fiscal period, a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period.

§ 927.33 Procedure.

(a) *Quorum and voting.* A quorum at a meeting of the Fresh Pear Committee or the Processed Pear Committee shall consist of 75 percent of the number of committee members, or alternates then serving in the place of any members, respectively. Except as otherwise provided in § 927.52, all decisions of the

Agricultural Marketing Service, USDA

§ 927.41

Fresh Pear Committee or the Processed Pear Committee at any meeting shall require the concurring vote of at least 75 percent of those members present, including alternates then serving in the place of any members.

(b) *Mail voting.* The Fresh Pear Committee or the Processed Pear Committee may provide for members voting by mail, telecopier or other electronic means, telephone, or telegraph, upon due notice to all members. Promptly after voting by telephone or telegraph, each member thus voting shall confirm in writing, the vote so cast.

§ 927.34 Right of the Secretary.

The members and alternates for members and any agent or employee appointed or employed by the Fresh Pear Committee or the Processed Pear Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 927.35 Funds and other property.

(a) All funds received pursuant to any of the provisions of this subpart shall be used solely for the purposes specified in this subpart, and the Secretary may require the Fresh Pear Committee or the Processed Pear Committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, disqualification, or expiration of the term of office of any member or employee, all books, records, funds, and other property in his or her possession belonging to the Fresh Pear Committee or the Processed Pear Committee shall be delivered to his or her successor in office or to the Fresh Pear Committee or Processed Pear Committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the Fresh Pear Committee or Processed Pear Committee full title

to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant to this subpart.

EXPENSES AND ASSESSMENTS

§ 927.40 Expenses.

The Fresh Pear Committee and the Processed Pear Committee are authorized, each independently, to incur such expenses as the Secretary finds may be necessary to carry out their functions under this subpart. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 927.41.

§ 927.41 Assessments.

(a) Assessments will be levied only upon handlers who first handle pears. Each handler shall pay assessments on all pears handled by such handler as the pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the Fresh Pear Committee or the Processed Pear Committee during a fiscal period. The payment of assessments for the maintenance and functioning of the Fresh Pear Committee or the Processed Pear Committee may be required under this part throughout the period such assessments are payable irrespective of whether particular provisions thereof are suspended or become inoperative.

(b)(1) Based upon a recommendation of the Fresh Pear Committee or other available data, the Secretary shall fix three base rates of assessment for pears that handlers shall pay on pears handled for the fresh market during each fiscal period. Such base rates shall include one rate of assessment for any or all varieties or subvarieties of pears classified as summer/fall; one rate of assessment for any or all varieties or subvarieties of pears, classified as winter; and one rate of assessment for any or all varieties or subvarieties of pears classified as other. Upon recommendation of the Fresh Pear Committee or other available data, the Secretary may also fix supplemental rates of assessment on individual varieties or subvarieties categorized within the assessment classifications in this paragraph (b)(1) to secure sufficient funds